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OFFICE OF PETITIONS

In re Application of
Pavitra Subramaniam et al
Application No. 09/883,776
Filed: June 18, 2001
Attorney Docket No. OCICO111US

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed December 7, 2006, under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that a copending application containing the same or similar disclosure had a counterpart application filed in a foreign country or under a multinational international treaty that requires publication of applications eighteen months after filing. The copending application's foreign-filed counterpart is Application No. PCT/US02/19401, filed June 17, 2002. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in the eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:


- (1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
- (2) the petition fee as set forth in 37 CFR 1.17(m); and
- (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request, which sets forth the projected publication date of May 31, 2007 was mailed on February 20, 2007.

A Notice of Allowability and a Notice of Allowance and Fee(s) Due were mailed in this case on May 12, 2006. However, in view of the nonpublication request filed with the application, the Notice of Allowance and Fee(s) Due mailed in this case did not require the submission of a publication fee. Therefore, as authorized in the petition, the \$300 publication fee now due will be charged to petitioner's deposit account. If publication of the application does not occur, applicant may file a request for a refund after the patent issues. *See* 37 CFR 1.211(e).

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.


Frances Hicks
Petitions Examiner
Office of Petitions